

STATE OF VERMONT
HUMAN SERVICES BOARD

In re)	Fair Hearing No. 21,138
)	
Appeal of)	

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, reducing the amount of her Food Stamps to zero to recoup an overpayment. The issue is whether the Department correctly calculated the petitioner's Food Stamp benefits. The decision is based on the testimony and records adduced at hearing.

FINDINGS OF FACT

1. The petitioner is a disabled individual with two children.¹ Her youngest son is also disabled. Both petitioner and her youngest son receive Supplemental Security Income (SSI) disability benefits.

2. The petitioner has difficulty comprehending information and remembering dates. Petitioner's case manager is TB from Imani Health Institute. TB explains to petitioner

¹ Her older son is now out of the household but was part of the household for the time period covered by the overpayment.

correspondence that comes from the Department or other agencies.

3. TB contacts various agencies such as the Department, the local housing authority, and the Social Security Administration when there are changes in petitioner's circumstances so that each agency can properly determine the amount of petitioner's respective benefits. Changes by one agency can affect the amount of Food Stamps petitioner receives.

Petitioner's Food Stamp case was compounded by petitioner's work attempt that resulted in earned income and reduced SSI benefits for the latter part of 2006 and the beginning of 2007. Changes to petitioner's Food Stamps were not made as petitioner's income and rent changed. The Department overpaid petitioner \$492 in Food Stamps based on an overpayment for the months of December 2006 through February 2007. The Department notified petitioner of this overpayment in a notice dated April 30, 2007. Petitioner recalled receiving the notice of the overpayment.²

² The Department claims that the overpayment is due to household error. Petitioner and TB claim that the Department was notified of changes. Even if the Department were notified, a resulting overpayment caused by agency error would still need to be repaid by petitioner.

4. Petitioner brought this appeal because she does not understand what is happening with her Food Stamps. By the hearing date, Petitioner had not met either of the two caseworkers who handle her case. During spring 2007, petitioner's benefits changed monthly as adjustments were made to her rent and her SSI and recoupment of the overpayment started. Her Food Stamps stabilized starting with July 2007 benefits.

5. The last Department notice to petitioner was issued May 31, 2007 explaining that starting July 1, 2007, petitioner was eligible for \$10 in Food Stamps but would receive no Food Stamps due to a recoupment for her overpayment. Petitioner had no recollection of receiving this Notice. On petitioner's behalf, TB attempted to file for fair hearing on two occasions and was finally successful in doing so on October 1, 2007.

6. Petitioner does not dispute the current amount of household income or rent. Based on Food Stamp regulations, *infra*, petitioner has \$1,350.08 unearned income. The Department subtracted the \$134 standard deduction leaving \$1,216.08 net income. The Department calculated the shelter deduction by adding petitioner's monthly rent of \$227 to the standard utility allowance of \$557 for a total of \$784. They

then subtracted half of petitioner's net income (\$608.04) from the combined rent/utility allowance leaving a shelter deduction of \$175.96. The Department determined countable income by subtracting the shelter deduction from net income leaving \$1,040.12. Based on the countable income, the Food Stamp allotment for a family of two is \$10 per month. The Department then applied a \$10 recoupment to the Food Stamps.

7. The Department correctly determined the petitioner's countable income and Food Stamp allotment.

ORDER

The Department's determination of petitioner's current Food Stamps is affirmed.

REASONS

The amount of Food Stamps a household receives is based upon a complex formula that is set out in Food Stamp Manual (FSM) § 273.9 and that reflects the federal funding for the Food Stamp program.

First, the standard deduction is subtracted from a household's unearned income creating a net income amount. FSM § 273.9(d)(1), P-2590(A)(1).

Second, the shelter/utility deduction is calculated. The shelter deduction is determined by (a) adding the rent to

the utility allowance, and (b) subtracting an amount equal to 50percent of the household's net income. FSM § 273.9(d)(5)(i).

Third, the countable income is determined by subtracting the shelter/utility deduction from the net income. The monthly food stamp benefit is based upon household size and countable income; the levels are found at P-2590(D).

When petitioner's rent or income changed, the Department needed to recalculate the amount of petitioner's food stamps. The Department correctly determined the amount of food stamps based on petitioner's income and rent.

In addition, the Department was required to recoup the overpayment from petitioner's current benefits. The required repayment is the greater of 10 percent of the household's monthly allotment or \$10 per month when the claim is based on administrative error or 20 percent of the household's monthly allotment or \$10 when caused by household error. FSM § 273.18(g)(4). After applying the recoupment, petitioner's Food Stamp benefit is reduced to zero.

The Board cannot base its decision on the effects of a particular decision or whether the Food Stamp income and allotment levels are adequate, but is bound to affirm the Department's decision if that decision is based on the law.

Inasmuch as the Department's decision is in accord with the above regulations, the Board should affirm the Department's decision.

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